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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,386	12/22/1999	ROGER P. GENSKE	24180-667000	6075

7590 08/06/2002

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EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 08/06/2002

15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/470,386

Applicant(s)

GENSKE ET AL.

Examiner

Monique R Jackson

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 July 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 16 July 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1-32.

Claim(s) withdrawn from consideration: 33-34.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

**ADVISORY ACTION**

Continuation of Item No.2. NOTE: The proposed amendments filed 7/16/02 will not be entered because they raise new issues that would require further search and/or consideration, they raise the issue of new matter, and they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. Proposed amended claim 1 recites the limitations "second layer comprising a blend of low density polyethylene and a polyethylene plastomer wherein said blend has a density range from about 0.89 g/cc to 0.93 g/cc" and "wherein said first layer is laminated to a film wherein said film comprises a polymeric material selected from", however it is noted that with regards to a blend utilizing a plastomer, the original disclosure at the time of filing only described a blend of LDPE with a plastomer in terms of the third layer wherein the plastomer had a density of 0.911 g/cc and the LDPE had a density of 0.921 g/cc as in the description at page 7, lines 2-4, or similarly in terms of the second layer as in original claims 13-14. The original disclosure does not describe a blend of LDPE and a polyethylene plastomer wherein the blend has a density range from about 0.89 g/cc to 0.93 g/cc. Further, the previously claimed invention did not require the first layer to be laminated to the film of polymeric material as now recited. Additionally, it is noted that Claim 23 still recites the limitation "wherein said second layer has a density range from about 0.89 g/cc to about 0.93 g/cc" which as previously discussed in the prior office action does not appear to be supported by the original disclosure. It is also noted that the proposed amendment presents a combination of film characteristics that was not previously presented in the claims, namely a multilayer film with a second layer comprising a blend of LDPE and polyethylene plastomer wherein the blend

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has a density of about 0.89 to 0.93 g/cc and a first layer that is laminated to a polymeric material film.

Continuation of Item No.5. NOTE: Applicant's arguments have been fully considered however they are moot given that they are based on the proposed amendments that have not been entered for the above reasons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 703-308-0428.

The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 703-308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



mrj  
August 2, 2002



STEVAN A. RESAN  
PRIMARY EXAMINER